

Approved – 1/29/04

CHARTER REVIEW COMMISSION
Thursday, December 18, 2003 – 8:00 a.m.
6th Floor Conference Room
Council Office Building

Minutes

Commission Members Present:

Kenneth Muir, Chair
Barbara Smith Hawk, Vice Chair
Julie Davis
Mollie Habermeier
Cheryl Kagan
Michael McKeehan
Javier Miyares
Sylvia Brown Olivetti (via telephone)
Shelton Skolnick

Members Absent:

Randy Scritchfield
Robert Skelton

Staff:

Michael Faden, Senior Legislative Attorney
Carol Edwards, Legislative Services Coordinator
Marc Hansen, Chief, Division of General Counsel,
Office of the County Attorney
Parker Hamilton, Assistant Chief Administrative
Officer
Sonya Healy, Legislative Analyst

Chairman Muir began the meeting at 8:00 a.m. Mr. Muir welcomed Parker Hamilton, representative from the Office of the County Executive, to the meeting and explained that Mr. Mooney had retired from County Government.

I. Review testimony from the public forum

Chairman Muir asked for comments on the testimony given at the December 3 public forum. Commissioners commented that they were pleased with the number of speakers, but would like to get feedback from a more diverse group. The Commission especially wants input from ethnic and business groups because these groups were not represented at the public forum. Most of the residents who testified were speaking as individuals or on behalf of civic organizations. Most of the speakers expressed a desire to change the current system in favor of more district representation.

The Commissioners asked staff to again solicit feedback from groups like the NAACP, CASA, the Korean-American Association, and the County Chamber of Commerce. The Commissioners believe that it is important to make an extra effort to get input from these groups before any recommendations are made.

Ms. Olivetti noted that the League of Women Voters wants to provide additional comments. At the public forum, the League supported continuing a mix of district and at-large representatives on the Council.

Ms. Habermeier asked if it would be appropriate for the Commission look at testimony from previous Charter Review Commissions, if no new responses could be solicited from the groups mentioned.

Mr. Muir noted that the disadvantage of reviewing past testimony is that a position taken previously may no longer reflect the position of a group. Keeping this in mind, Commissioners are free to review the testimony provided in the appendix of the 2002 Charter Review Commission Report.

II. Discussion of issues

A. *Council structure*

Mr. Muir stated that the Commission had identified three alternatives related to the structure the Council:

- i. Maintain the existing number of Councilmembers (9) and the current ratio of district vs. at large seats (5-4);
- ii. Increase the overall number of Councilmembers; or
- iii. Change the ratio of district versus at-large seats.

Mr. Muir asked if any Commissioners wanted to advocate for or against any of these positions. Ms. Kagan suggested that this item be tabled because it is one of the more controversial issues and would likely generate a lot of discussion. The Commission agreed to table this item.

B. *Councilmember positions full- or part-time jobs*

Mr. Muir reviewed the following alternatives related to Councilmember employment:

- i. Leave the Charter silent on this issue;
- ii. Amend the Charter to provide that these positions are part-time jobs; or
- iii. Amend the Charter to provide that these positions are full-time with limits on outside employment.

C. *Councilmembers' salaries*

Mr. Muir reviewed the following issues associated with Councilmember salaries:

- i. Maintain current salaries for Councilmembers (approx. \$72,000); or
- ii. Increase Councilmember salaries to be commensurate with full-time employment.

Ms. Davis suggested that full- or part-time employment and salaries be discussed together because they are so interrelated.

Mr. McKeehan noted that salary issues related to public officials are the responsibility of the Compensation Task Force.

Mr. Muir noted that the Commission could recommend that the Compensation Task Force look at the issue of Councilmember salaries, but should not make recommendations as to a specific salary amount.

The Commissioners reviewed the chart on the structure of county representation and salaries for representatives in other jurisdictions. Compared to other jurisdictions that have part-time councils, Montgomery County Councilmembers are fairly compensated, but when compared to full-time councils, Montgomery County Councilmember receive lower salaries.

Commission members discussed the issue of limiting outside employment for Councilmembers. Since the reality is that Councilmembers are working 40 hours per week or more, some Commissioners supported paying Councilmembers an amount commensurate with full-time employment, with limits on outside employment. Other Commissioners believed that Councilmembers should be permitted to have outside employment with limits established by the Ethics Commission.

Commission members discussed restrictions on outside employment for the County Executive. Mr. Skolnick noted that the County Charter, Article 2, Section 203 states that the County Executive "...shall not participate in any private occupation for compensation."

If the Commission wants to pursue this issue for Councilmembers, it was suggested that similar language could be added to the Charter that states "...and shall not participate in any **substantial** private occupation for compensation". This would leave the door open for Councilmembers to pursue some types of outside employment (teaching a class or military reservist service).

Mr. McKeehan stated that the 2002 Compensation Task Force discussed the Councilmembers' salaries when it reviewed the full-time verses part-time issue. According to Mr. McKeehan, Councilmembers who were interviewed by the Task Force stated that they worked more than 40 hours per week on Council business and constituent services, but it was difficult for the Task Force to separate constituent services and Council business from political activities. The Compensation Task Force did not make a recommendation on the issue of full-time verses part-time employment, but did recommend increasing Councilmembers' salaries to their current level.

Ms. Davis suggested that the Commission support a Charter amendment to make Councilmembers full-time positions. Montgomery County residents expect full-time service and Councilmembers should be performing full-time jobs. The question of what constitutes "substantial employment" could be determined by the Ethics Commission.

Mr. Muir asked Mr. Hansen and Mr. Faden to comment on the legality of amending the Charter on the full-time/part-time issue. Mr. Hansen stated that if the language says "no substantial outside employment," then the question becomes how that decision is made. He

said that the Commission could mandate full-time employment by amending the Charter, as long as the language is not so vague as to be unenforceable. Mr. Hansen suggested that if the Ethics Commission is tasked with determining what substantial employment is for Councilmembers, this should be specifically stated in the Charter.

Mr. Faden stated that he agreed with Mr. Hansen's comments, and he thinks that the Ethics Commission would be the logical choice to determine what constitutes substantial outside employment. He recommended that the Commission create some legislative history in their report making sure they spell out what they mean by substantial outside employment to give the Ethics Commission some guidance.

Ms. Kagan asked about the timing of the Commission's recommendations. Assuming that the Commission's recommends amending the Charter to provide that Councilmember positions are full-time jobs, and the Council recommends that this is placed on the ballot in November 2004, and it goes into effect in December 2006, will the Compensation Task Force have time to make salary recommendations?

Based on the timeline laid out by Ms. Kagan, the Compensation Task Force could meet and make recommendations, so that the next Council is not required to work full-time under the Charter and paid on a part-time basis.

Mr. Muir suggested the following proposal--Council positions are full-time employment. Councilmembers cannot engage in any **substantial** outside employment.

Mr. Muir asked for a straw vote on this proposal. Seven Commissioners supported the proposal.

Mr. Muir tasked Ms. Davis and Mr. Hansen with developing language for the Commission to consider at the next meeting.

Ms. Kagan asked Mr. Hansen to look at the language that is used on the State level.

Ms. Hawk disagreed with this proposal because she did not believe that it makes a substantial change to the current system. If constituents are unhappy with the level of service they are receiving they have the power of the ballot box.

Mr. McKeehan said he would like to hear from the County Chamber of Commerce and minority groups before expressing an opinion on this issue. If the goal of this change is to get a more diverse Council, he wants to make sure that the stakeholders believe that this would help achieve this goal.

D. Number of signatures required for Charter amendments

Mr. Muir reviewed the options related to the number of signatures required to petition Charter amendments:

- i. Take no position on this issue;
- ii. Advise the Council and Executive to continue working with the Montgomery County Delegation to increase the number of signatures required for Charter amendments comparable to referendums; or
- iii. Reduce the number of signatures required for referendums in Charter Section 114 (five percent of the registered voters = approx. 23,000).

It was recommended that the Commission take no position on the signature requirement for Charter amendments. Mr. Muir called for a straw vote on this issue. Eight Commissioners voted in favor of taking no position on this issue.

Ms. Kagan disagreed with this recommendation because she believes it is important for the Council to continue working with County representatives in Annapolis on this issue.

E. Petitions filed by Mr. Ficker

Mr. Muir reviewed the petitions filed by Mr. Ficker:

- i. Tax cap; and
- ii. Term limits.

Mr. Muir asked if Commissioners wanted to comment on the petitions filed by Mr. Ficker. The Commissioners asked for guidance on whether the 2004 Report should include these proposals. The Commissioners agreed to delay discussing these issues until the summer of 2004, unless the Council requests their comments in the 2004 Report.

The Commissioners revisited the issue of Council structure. There was a recommendation to increase the number of Councilmembers to 11. Some commissioners expressed concern that increasing the number of Councilmembers would not be justified during a time of fiscal restraint, and that a larger legislative body would dilute the power base between the legislative and Executive branch. Some Commissioners supported the current structure of 9 Councilmembers (5 district, 4 at large), while others supported changing the Council structure to have 9 district Councilmembers, which is the proposal from the Civic Federation.

The Commissioners agreed that more input from the community is needed before taking a straw vote on the issue on the ratio of at-large verses district representation and the size of the Council.

III. Administrative Items

Mr. Muir asked for a motion to approve the minutes of November 20. A motion to approve was made and seconded and the minutes were approved by those members present.

Meeting adjourned at 9:55 a.m.